

Application No. 10/717,870
Amendment dated July 7, 2006
Reply to Office Action of June 6, 2006

REMARKS

This amendment is responsive to the Office Action mailed June 6, 2006 in connection with the above-identified patent application. In that Action, claims 1-5, 9-11, 16-20, and 25-27 were rejected. However, claims 6-8, 12-15, 21-24, and 28-31 were merely objected to and were indicated as containing allowable subject matter.

THE NON-ART REJECTIONS

Turning to the Office Action in more detail, claim 1 was rejected under 35 U.S.C. § 112, second paragraph as, according to the Examiner, there is insufficient antecedent basis for the limitation "the output" in line 4. In addition, claims 18-24 were rejected under 35 U.S.C. § 104 because, according to the Examiner, the claimed invention is directed to non-statutory subject matter.

Claims 21-24 are in Condition for Allowance Under 35 U.S.C. § 101:

Applicants have tendered an amendment to claims 21 and 24 placing each of those claims into independent form to include all of the limitations of base claim 18. In addition, applicants have tendered an amendment to those claims to recite an article of manufacture including a program storage medium storing instructions executable by an associated computer, the instructions embodying an XML query compilation processor. Accordingly, it is respectfully submitted that those claims as amended recite statutory subject matter. Applicants have incorporated the suggestions set out by the Examiner on page 3 of the Office Action that "the software must be stored in a tangible medium" and, again, therefore, it is respectfully submitted that claims 21 and 24 rewritten into independent form and claims 22 and 23 dependent from claim 21 are in condition for allowance under 35 U.S.C. § 101.

THE ART REJECTIONS

Turning yet once again to the Office Action in greater detail, claims 1-3, 17, 18, and 20 were rejected under 35 U.S.C. § 102(e) as being anticipated by Publication No. 2005/0004892 to Brundage, et al. In addition, claims 4, 5, and 9-11 were rejected under

Application No. 10/717,870
Amendment dated July 7, 2006
Reply to Office Action of June 6, 2006

35 U.S.C. § 103(a) as being unpatentable over the '4892 publication to Brundage, et al. in view of Publication No. 2004/02677760 to Brundage, et al.

Applicants have canceled claims 1-5, 9-11, 16-20, and 25-27 from further consideration in this application. However, the applicants respectfully reserve the right to pursue those and other claims in one or more continuation and/or divisional patent applications. Applicants are not conceding in this application that those claims are not patentable over the art applied by the Examiner. The cancellation of those claims herein is only for facilitating expeditious prosecution of the allowable subject matter noted by the Examiner with regard to claims 6-8, 12-15, 21-24, and 28-31.

Claims 6, 7, and 8 are in Condition for Allowance:

As noted above, the Examiner identified allowable subject matter in the Office Action. More particularly, claims 6-8, 12-15, 21-24, and 28-31 were indicated as containing allowable subject matter and the Examiner committed to allowing those claims if placed into independent form to include all of the limitations of their respective base claims and any intervening claims.

In accordance with the above, therefore, applicants have tendered an amendment to claim 6 placing it into independent form to include all of the limitations of original base claim 1 and intervening claim 4. Claims 7 and 8 depend directly from claim 6.

Accordingly, it is respectfully submitted that claim 6 rewritten into independent form to include all of the limitations of base claim 1 and intervening claim 4, together with dependent claims 7 and 8 are in condition for allowance.

Claims 12-15 are in Condition for Allowance:

As noted above, the Examiner identified allowable subject matter in the Office Action. More particularly, claims 6-8, 12-15, 21-24, and 28-31 were indicated as containing allowable subject matter and the Examiner committed to allowing those claims if placed into independent form to include all of the limitations of their respective base claims and any intervening claims.

*Application No. 10/717,870
Amendment dated July 7, 2006
Reply to Office Action of June 6, 2006*

In accordance with the above, therefore, applicants have tendered an amendment to claim 12 placing it into independent form to include all of the limitations of original base claim 1. Claims 13-15 depend from claim 12.

It is respectfully submitted that claim 12 as amended above into independent form including all of the limitations of base claim 1, together with claims 13-15 dependent therefrom are in condition for allowance.

Claims 21-23 are in Condition for Allowance:

As noted above, the Examiner identified allowable subject matter in the Office Action. More particularly, claims 6-8, 12-15, 21-24, and 28-31 were indicated as containing allowable subject matter and the Examiner committed to allowing those claims if placed into independent form to include all of the limitations of their respective base claims and any intervening claims.

In accordance with the above, therefore, applicants have tendered an amendment to claims 21 and 24 placing them into independent form to include all of the limitations of original base claim 18. Claims 22 and 23 depend directly from claim 21.

Accordingly, it is respectfully submitted that claim 21 rewritten into independent form to include all of the limitations of base claim 18, together with dependent claims 22 and 23 are in condition for allowance.

Further, it is respectfully submitted that claim 24 rewritten into independent form to include all of the limitations of base claim 18 is now in condition for allowance.

Claims 28 and 29 are in Condition for Allowance:

As noted above, the Examiner identified allowable subject matter in the Office Action. More particularly, claims 6-8, 12-15, 21-24, and 28-31 were indicated as containing allowable subject matter and the Examiner committed to allowing those claims if placed into independent form to include all of the limitations of their respective base claims and any intervening claims.

*Application No. 10/717,870
Amendment dated July 7, 2006
Reply to Office Action of June 6, 2006*

In accordance with the above, therefore, applicants have tendered an amendment to claim 28 placing it into independent form to include all of the limitations of original base claim 25. Claim 29 depends directly from claim 28.

Accordingly, it is respectfully submitted that claim 28 rewritten into independent form to include all of the limitations of base claim 25, together with dependent claim 29 are in condition for allowance.

Claims 30 and 31 are in Condition for Allowance:

As noted above, the Examiner identified allowable subject matter in the Office Action. More particularly, claims 6-8, 12-15, 21-24, and 28-31 were indicated as containing allowable subject matter and the Examiner committed to allowing those claims if placed into independent form to include all of the limitations of their respective base claims and any intervening claims.

In accordance with the above, therefore, applicants have tendered an amendment to claim 30 placing it into independent form to include all of the limitations of original base claim 25. Claim 31 depends directly from claim 30.

Accordingly, it is respectfully submitted that claim 30 as amended above into independent form to include all of the limitations of base claim 25, together with claim 31 dependent therefrom are in condition for allowance.

Application No. 10/717,870
Amendment dated July 7, 2006
Reply to Office Action of June 6, 2006

CONCLUSION

In view of the above amendments, comments, and arguments presented, it is respectfully submitted that all pending claims are patentably distinct and unobvious over the references of record.

Allowance of all pending claims and early notice to that effect is respectfully requested.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & MCKEE, LLP

φ75UCX6
Date

Michael S. Hudzinski
Michael E. Hudzinski, Reg. No. 34,185
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2579
216-861-5582

CERTIFICATE OF MAILING OR TRANSMISSION	
I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being	
<input type="checkbox"/>	deposited with the United States Postal Service as First Class Mail, addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.
<input checked="" type="checkbox"/>	transmitted to the USPTO by facsimile in accordance with 37 CFR 1.18 on the date indicated below.
Express Mail Label No.:	Signature: <u>Barbara Brazier</u>
Date: July 7, 2006	Name: Barbara Brazier

N:VBMZV00042bjb0004761V001.doc